

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.**UNITED STATES DISTRICT COURT** ★ **APR 24 2009** ★

EASTERN

District of

NEW YORK

BROOKLYN OFFICE

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

(For Organizational Defendants)

NICHOLS INSTITUTE DIAGNOSTICS, INC.

CASE NUMBER: 09-CR-0203-SJ

Jim Walden, 200 Park Ave, 48th Flr, NY NY 10016

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:☒ pleaded guilty to count(s) one of a one-count information.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC 331(a) and 333(a)(2)	Introduction into interstate commerce of a device that was misbranded with the intent to defraud or mislead.	5/31/2000	1

The defendant organization is sentenced as provided in pages 2 through 6 of this judgment.☐ The defendant organization has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

 Defendant Organization's
 Federal Employer I.D. No.: 95-2955451
4/15/2009

Date of Imposition of Judgment

Defendant Organization's Principal Business Address:

 3 Giralda Farms
 Madison NJ 07940

/s/(SJ)

Signature of Judge

STERLING JOHNSON, JR.U.S.D.J.

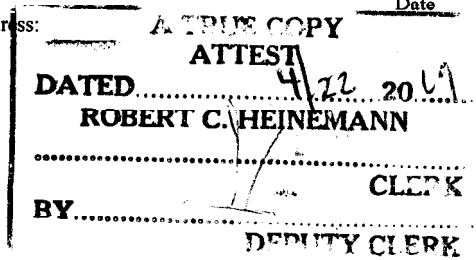
Name of Judge

Title of Judge

4/22/2009

Date

Defendant Organization's Mailing Address:



DEFENDANT ORGANIZATION: NICHOLS INSTITUTE DIAGNOSTICS, INC.
CASE NUMBER: 09-CR-0203-SJJudgment — Page 2 of 6**CRIMINAL MONETARY PENALTIES**

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$ 40,000,000.00	\$

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$ 0.00	\$ 0.00	

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT ORGANIZATION: NICHOLS INSTITUTE DIAGNOSTICS, INC.
CASE NUMBER: 09-CR-0203-SJ

Judgment — Page 3 of 6

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

DEFENDANT ORGANIZATION: NICHOLS INSTITUTE DIAGNOSTICS, INC.
CASE NUMBER: 09-CR-0203-SJ

Judgment — Page 4 of 6

SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 400.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C or ☐ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
Fine is to be paid to the Clerk of the Court by 4/20/2009.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.